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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MAURICE KANBAR,
Plaintiff,

v.

AMERICAN FRIENDS OF MAGEN
DAVID ADOM,
Defendant.

RELATED COUNTERCLAIM

RELATED THIRD-PARTY COMPLAINT

Case No. [18-cv-00328-MMC](#)

ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF AND COUNTER-DEFENDANT MAURICE KANBAR'S MOTION TO DISMISS; GRANTING THIRD-PARTY DEFENDANTS TSACH GILBOA'S AND RACHEL WARREN'S MOTIONS TO DISMISS; DENYING AS MOOT GILBOA'S AND WARREN'S MOTIONS TO STRIKE; AFFORDING LEAVE TO AMEND

Re: Dkt. Nos. 25, 29, 38

Before the Court are the following three motions: (1) plaintiff and counter-defendant Maurice Kanbar's ("Kanbar") "Motion to Dismiss Counterclaim Pursuant to Federal Rule[] of Civil Procedure 12(b)(6)," filed February 28, 2018; (2) third-party defendant Tsach Gilboa's ("Gilboa") "Motion to Dismiss Third-Party Complaint Pursuant to Federal Rule[] of Civil Procedure 12(b)(6) and Strike Under Rule 12(f)," filed March 5, 2018; and (3) third-party defendant Rachel Warren's ("Warren") "Motion to Dismiss Third Party Plaintiff's Claims Pursuant to Federal Rules of Civil Procedure 12(b)(1) and (6)," filed March 15, 2018.¹ Defendant, counterclaimant, and third-party plaintiff American Friends of Magen David Adom ("AFMDA") has filed opposition to each motion, to which each moving party has replied. The matters came on regularly for hearing on May 11,

¹ Although not so titled, Warren's motion encompasses a motion to strike. See Warren's Mot. to Dismiss Third Party Pl.'s Claims at 1 n.2; see also id. at 3 n.2 & 4 n.3.


1 2018. Shelly D. McMillan and Matthew B. Herrell of McMillan and Herrell appeared on
2 behalf of AFMDA. Andrew P. Holland of Thoits Law appeared on behalf of Kanbar and
3 Gilboa. Troy Valdez of Valdez Law Group, LLP, appeared on behalf of Warren.

4 For the reasons stated on the record at the hearing, the Court rules as follows.

- 5 1. With respect to Kanbar's motion to dismiss AFMDA's Counterclaim:
- 6 a. To the extent Kanbar seeks an order dismissing AFMDA's Second
7 Claim for Relief, "Negligent Misrepresentation," the motion is GRANTED
8 with leave to amend; AFMDA's First Amended Counterclaim, if any,
9 shall be filed no later than June 4, 2018.
- 10 b. In all other respects, the motion is DENIED.
- 11 2. With respect to Gilboa's and Warren's motions to dismiss the Third-Party
12 Complaint:
- 13 a. To the extent Gilboa and Warren seek an order dismissing the Third-
14 Party Complaint, which pleading comprises a single cause of action for
15 "Intentional Interference With Contractual Relations," the motions are, in
16 each instance, GRANTED with leave to amend; AFMDA's First
17 Amended Third-Party Complaint, if any, shall be filed no later than June
18 4, 2018.
- 19 b. To the extent Gilboa and Warren move to strike portions of the Third-
20 Party Complaint, the motions are, in each instance, DENIED as moot.

21 **IT IS SO ORDERED.**

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23 Dated: May 14, 2018


MAXINE M. CHESNEY
United States District Judge

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